THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No. 16585 of 2006

DATED: 11-08-2006

Between:

Merugu Bapunaidu.

..Petitioner.

and

Returning Officer, Stage-I, Pudimadaka Gram Panchayat,
Atchutapuram Mandal, visakhapatnam District and others.

..Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.16585 of 2006

ORDER:

Heard the counsel.

2. This writ petition is filed for a writ of mandamus declaring the action of respondents 1 and 2 in accepting the nomination of 3rd respondent on 20-07-2006 for the post of Sarpanch, Pudimadaka Gram Panchayat, Atchutapuram Mandal, Visakhapatnam District and declaring him as elected candidate on 02-08-2006 when surcharge proceedings dated 19-07-2006 of the District Panchayat Officer, Visakhapatnam are pending against him for recovery of Rs.18,657/- for the year 2001-2002 when he was Sarpanch of the said Gram Panchayat for the year 2001-2006 as being illegal, unjust, arbitrary and violative of Article 14 of the Constitution of India and the provisions of the Andhra Pradesh Panchayat Raj Act and the Election Rules made there under and pass such other suitable orders.

3. It is stated that on 20-07-2006, when the date of scrutiny of the nominations was fixed, the District Panchayat Officer, Visakhapatnam, circulated copy of the surcharge proceedings pending against 74 persons in various villages of Atchutapuram Mandal including Pudimadaka Gram Panchayat. It is also stated

that the District Panchayat Officer, Visakhapatnam, by his proceedings, dated 19-07-2006, informed the same to all the Returning Officers of various Gram Panchayats and the proceedings had been received by the first respondent even before 20-07-2006. It is stated that 3rd respondent fell in arrears of tax of Rs.18,657/- as per S.C.No.81,dated 18-04-2002. On 20-07-2006, the petitioner filed objections before 1st respondent, but he rejected his objections and declared 3rd respondent as Sarpanch of the Gram Panchayat on 02-08-2006. The petitioner filed an appeal to 2nd respondent on 21-07-2006 and the authorities had also fixed the date as 20-08-2006 to administer oath. This disqualification in relation to surcharge proceedings is the main ground in the present writ petition. It is needless to say that the petitioner is having a remedy by way of election petition, if he is so advised.

4. With the above observation, the Writ Petition is disposed of. No order as to costs.

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P.S.NARAYANA,J

Dated:11-08-2006

sj